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December 14, 1999

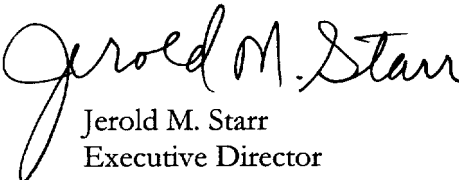
Hon. Magalie Roman Salas  
Secretary  
FCC  
445 12th Street, SW  
Washington, DC 20554

Dear Ms. Salas:

RE: Application of Section 73.606(b), Table of Allmentments, Television  
Broadcast Stations and Section 63.622(b), Table of Allotments, Digital  
Television Broadcast Stations (Buffalo, New York), MM Docket No.  
98-75, RM-9364

This letter re-files and corrects the "Comments of Amicus CIPB in Support of  
CNM Petition for Emergency Relief" by providing the docket number, signature  
of a principal and identification of counsel who provided assistance.

Respectfully submitted,

  
Jerold M. Starr  
Executive Director

Attachment

Cc: Service List (attached)

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## COMMENTS OF AMICUS CIPB IN SUPPORT OF CNM PETITION FOR EMERGENCY RELIEF

Citizens for Independent Public Broadcasting (CIPB) submits these comments as amicus curiae in support of the Petition for Emergency Relief of the Coalition for Noncommercial Media (CNM), filed on November 26, 1999, in the above entitled docket. The interest of CIPB and the reasons for this submission are succinctly stated below.

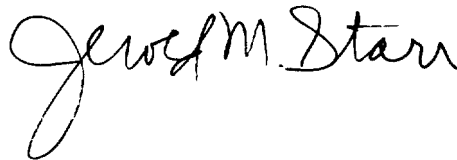
1. The interest of CIPB. Citizens for Independent Public Broadcasting (CIPB) is a non-profit corporation dedicated to reforming the U.S. public broadcasting service. CIPB has developed a proposal for restructuring the national service as an independently funded public trust, free of corporate and government influence on programming. CIPB also works with national partner organizations to build local chapters to democratize their communities' public broadcasting service. CIPB is committed to preserving all reserved frequencies for service in the public interest and in strengthening the service so that it can fulfill its founding mission with editorial integrity.
2. The grounds for these comments. CIPB strongly supports the main position set forth in the CNM petition—namely, that there is a most important policy being undermined by the activities of Western New York Public Broadcasting Association (WNYBPA) in the Buffalo situation. The facts are set out in the Petition and will not be repeated here. The crucial factual consideration is that before WNYBPA's maneuvering, there were two channels devoted to serving the area's needs for educational and alternative noncommercial programming. In this connection, we stress that it is irrelevant that only one (Channel 23) was reserved for noncommercial operation. This two-channel public TV situation markedly serves the public interest. That is the reason why the Commission has established numerous such two-channel operations and that is why there is such clear precedent favoring the continuation of two-channel public TV service. See, e.g., Deletion of Noncommercial Reservation of Channel 16, 482-488 MHz, Pittsburgh, Pa., 11 FCC Red 11700, 11707, 11710.

If that two-channel public service operation is to end, and in its place there is to be just another commercial operation among the many such operations in Buffalo, the Commission must find that this change is in the public interest. There can be unusual and compelling reasons for the change, such as dire financial straits of the Buffalo noncommercial operation. There is no such showing in this instance. We therefore urge the Commission to adhere to sound and well established precedent, and take action to preserve the two-channel noncommercial situation. We note that this does not

mean that one of the channels cannot be sold by the incumbent but only that in such assignment, the licensee should make every reasonable effort to maintain the noncommercial nature. Again there has been no showing that such a course of action, which would be consistent with precedent and the public interest, is not feasible in the circumstances.

For the above reasons, CIPB respectfully urges the Commission to act along the lines set out in the Petition and thus preserve not only the public interest in this Buffalo situation but also avoid undermining an important and most sound policy principle.

Respectfully submitted,

A handwritten signature in black ink, reading "Jerold M. Starr". The signature is fluid and cursive, with the first name "Jerold" being more prominent and the last name "Starr" following in a similar style.

Jerold M. Starr  
Executive Director

Of Counsel:

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CERTIFICATE OF SERVICE

I, Jerold M. Starr, hereby certify that I have this 14<sup>th</sup> day of December, 1999, caused the foregoing "Petition for Emergency Relief" to be delivered by U.S. First Class Mail, postage prepaid, to the following:

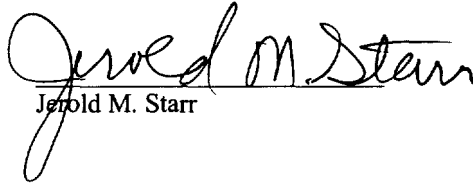
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Jerold M. Starr